

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

FAIR ISAAC CORPORATION, a)	Case No. 16-cv-1054 (DTS)
Delaware corporation,)	
)	
Plaintiff,)	
)	
v.)	
)	
FEDERAL INSURANCE COMPANY,)	
an Indiana corporation and ACE)	
AMERICAN INSURANCE)	
COMPANY, a Pennsylvania)	
corporation,)	
)	
Defendants.)	

**PLAINTIFF FAIR ISAAC CORPORATION'S
PROPOSED SPECIAL VERDICT FORM**

Pursuant to the Court's Trial Notice and Final Pretrial Order (Dkt. 923), Plaintiff Fair Isaac Corporation ("Plaintiff") submits the following proposed special verdict form.

I. PART I: BREACH OF THE LICENSE AGREEMENT – CLAIMS AGAINST FEDERAL INSURANCE COMPANY

1. Did FICO prove breach of Paragraph 10.8 of the License Agreement before March 30, 2016?

Yes: ____ (Finding for FICO)

No: ____ (Finding for Federal)

2. Did FICO prove breach of Paragraph 10.8 because the use of Blaze Advisor in fact expanded after the assignment event?

Yes: ____ (Finding for FICO)

No: ____ (Finding for Federal)

3. Did FICO prove breach of Paragraph 3.1(iv) of the License Agreement before March 30, 2016, because persons not employees of Chubb & Son (but employees of foreign insurance companies) had access to and used Blaze Advisor?

Yes: ____ (Finding for FICO)

No: ____ (Finding for Federal)

I instruct you that FICO proved breach of Paragraph 3.1(iv) of the License Agreement before March 30, 2016, because of the unauthorized access to and use of Blaze Advisor by third-party consultants.

I further instruct you that FICO properly terminated the License Agreement, and that Federal breached Paragraph 9.3 of the License Agreement.

II. PART II: COPYRIGHT INFRINGEMENT AGAINST FEDERAL FOR USE OF BLAZE ADVISOR AFTER TERMINATION OF THE AGREEMENT

4. Did FICO prove that Version 7.1¹ of Blaze Advisor was a derivative work of Blaze Advisor Version 7.0 and/or that Version 7.2 of Blaze Advisor was a derivative work of Version 7.1?

Yes: ____ (Finding for FICO)

¹ The evidence may show that Blaze Advisor Version 7.1.1 was used during the infringement period, or that both Versions 7.1 and 7.1.1 were used. The Interrogatory to the Jury should conform with the evidence.

No: ____ (Finding for Federal)

If you answered Question No. 4 “Yes,” then I instruct you that Federal’s unauthorized use of Blaze Advisor after March 31, 2016, was copyright infringement.

III. PART III: LOST LICENSE FEE DAMAGES FROM FEDERAL FOR BREACH OF PARAGRAPH 3.1(iv) BECAUSE PERSONS NOT EMPLOYEES OF CHUBB & SON USED BLAZE ADVISOR BEFORE THE AGREEMENT WAS TERMINATED

If you answered Question No. 3 “Yes,” then you must determine the amount of FICO’s loss from the use of Blaze Advisor by Chubb Insurance Company of Canada, Chubb Insurance Company of Europe, and Chubb Insurance Company of Australia from the date of first use to March 31, 2016 (the effective date of termination of the License Agreement).

5. The amount of FICO’s lost license fees from the pre-termination use of Blaze Advisor by these foreign insurance companies is:

\$ _____

IV. PART IV: LOST LICENSE FEE DAMAGES FROM FEDERAL FOR USE OF BLAZE ADVISOR AFTER THE AGREEMENT WAS TERMINATED

You must determine the amount of FICO’s loss from the use of Blaze Advisor from March 31, 2016, (the effective date of termination of the License Agreement) to the date Federal’s use through its division Chubb & Son stopped.

6. The amount of FICO’s loss from the use of Blaze Advisor by Federal after termination of the License Agreement is:

\$ _____

You must also determine the amount of FICO’s loss from the use of Blaze Advisor by Chubb Insurance Company of Canada, Chubb Insurance Company of Europe, and Chubb Insurance Company of Australia from March 31, 2016, (the effective date of termination of the License Agreement) to the date this use stopped.

7. The amount of FICO’s loss from the use of Blaze Advisor by these foreign insurance companies after termination of the License Agreement is:

\$ _____

V. PART V: ACTUAL COPYRIGHT DAMAGES – FEDERAL

If you answered Question No. 4 “Yes,” then FICO is entitled to actual damages from the infringement of Blaze Advisor copyrights from March 31, 2016, (the effective date of termination of the License Agreement) to the date Federal’s use through its division Chubb & Son stopped.

I instruct you that the amount of actual copyright damages is the same amount you found as lost license fee damages in answer to Question No. 6.

VI. PART VI: WILLFUL COPYRIGHT INFRINGEMENT – FEDERAL

If you answered Question No. 4 “Yes,” then please answer the following question:

8. Did FICO prove that Federal’s copyright infringement of Blaze Advisor was willful?

Yes: ____ (Finding for FICO)

No: ____ (Finding for Federal)

VII. PART VII: COPYRIGHT INFRINGEMENT – ACE AMERICAN

If you answered Question No. 4 “Yes,” then I instruct you that ACE American’s unauthorized use of Blaze Advisor was copyright infringement.

VIII. PART VIII: ACTUAL COPYRIGHT DAMAGES – ACE AMERICAN

If you answered Question No. 4 “Yes,” then you must determine the amount of FICO’s actual damages from the infringing use of Blaze Advisor by ACE American.

9. The amount of FICO’s actual damages from the use of Blaze Advisor by ACE American is:

\$ _____

IX. PART IX: WILLFUL COPYRIGHT INFRINGEMENT – ACE AMERICAN

If you answered Question No. 4 “Yes,” then please answer the following question:

10. Did FICO prove that ACE American’s copyright infringement of Blaze Advisor was willful?

Yes: ____ (Finding for FICO)

No: ____ (Finding for ACE American)

X. PART X: SINGLE ENTERPRISE

11. Did FICO prove that Federal, Federal's subsidiaries, and the companies in the intercompany insurance pool led by Federal are a single enterprise?

Yes: ____ (Finding for FICO)

No: ____ (Finding for Federal)

12. Did FICO prove that ACE American, ACE American's subsidiaries, and the companies in the intercompany insurance pools led by ACE American are a single enterprise?

Yes: ____ (Finding for FICO)

No: ____ (Finding for ACE American)

XI. PART XI: VICARIOUS LIABILITY

If you answered Question No. 4 "Yes," then please answer Question Nos. 13 and 14:

13. Did FICO prove that Federal's infringement of FICO copyrights in 2016 included the unauthorized use of Blaze Advisor for the benefit of ACE American which was subject to ACE American's control?

Yes: ____ (Finding for FICO)

No: ____ (Finding for Federal)

14. Did FICO prove that ACE American's infringement of FICO copyrights in 2017 and thereafter included the unauthorized use of Blaze Advisor for the benefit of Federal which was subject to Federal's control?

Yes: ____ (Finding for FICO)

No: ____ (Finding for ACE American)

XII. PART XII: DISGORGEMENT ADVISORY FINDING

If you answered Question No. 4 "Yes," and you answered Question No. 11 "Yes," then please answer Question No. 15:

15. The amount of revenue to be disgorged from Federal's single enterprise because of Federal's infringement of FICO copyrights is:

\$ _____

If you answered Question No. 4 "Yes," and you answered Question No. 11 "No," then please answer Question No. 16:

16. The amount of Federal's revenue to be disgorged because of its infringement of FICO copyrights is:

\$ _____

If you answered Question No. 4 "Yes," and you answered Question No. 12 "Yes," then please answer Question No. 17:

17. The amount of revenue to be disgorged from ACE American's single enterprise because of ACE American's infringement of FICO copyrights is:

\$ _____

If you answered Question No. 4 "Yes," and you answered Question No. 12 "No," then please answer Question No. 18:

18. The amount of ACE American's revenue to be disgorged because of its infringement of FICO copyrights is:

\$ _____

XIII. PART XIII: DEFENDANTS' COUNTERCLAIMS

I instruct you that FICO properly terminated the License Agreement. Defendants' counterclaim for improper termination of the License Agreement fails.

If you answered Question No. 1 "Yes," and/or if you answered Question No. 2 "Yes," then I also instruct you that FICO did not breach the covenant of good faith and fair dealing. Otherwise please answer Question No. 19:

19. Did Defendants prove that FICO breached the implied covenant of good faith and fair dealing because FICO enforced Paragraph 10.8 to require its prior consent for the use of Blaze Advisor after the acquisition and change of control?

Yes: ____ (Finding for Defendants)

No: ____ (Finding for FICO)

Date _____

Signature of Foreperson

Dated: January 25, 2023

/s/ Heather Kliebenstein

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Heather Kliebenstein, MN Bar # 337419

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